

REMARKS

Applicants sincerely appreciate the thorough examination of the present application as evidenced by the Final Office Action of December 3, 2009 (hereinafter "Office Action"). In response, Applicants have amended Claims 1 and 22 to include recitations of dependent Claim 6, which is canceled herein.

In the following remarks, Applicants will show that all claims are patentable over the cited art. Accordingly, a Notice of Allowance is respectfully requested in due course.

Independent Claims 1 and 22 Are Patentable over Saito and MacInnis

Claims 1, 2, 4, 6, 7 and 9-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,987,767 to Saito (hereinafter "Saito") in view of U.S. Patent No. 6,853,385 to MacInnis et al. ("MacInnis"). (Office Action, page 3.) Applicants respectfully traverse the rejections as Saito and MacInnis, alone or in combination, fail to disclose or several of the recitations of amended Independent Claims 1 and 22 of the present application.

Amended Claim 1, for example, recites:

1. A method of forming an output media stream to be transmitted during a communication session from a portable communication device wherein said output media stream comprises signals of a first media type, the method comprising:
generating in real time a first media stream in the portable communication device,
combining in real time the first media stream with a second media stream to form the output media stream **wherein combining comprises superposing signals of the first media type from the first media stream on signals of the first media type from the second media stream to produce the output media stream**, wherein the output media stream comprises portions of the first and second media streams which are configured to be presented in a substantially simultaneous time period, and
transmitting said output media stream,
wherein at least one of generating and/or combining is dependent on input data from a user of said portable communication device.
(Emphasis added).

In support of the rejection of Claim 1, the Office Action concedes that that Saito does not disclose "superposing signals of the first media type from the first media stream on signals of the first media type on the second media stream" and

alleges that MacInnis discloses "combining audio and video transport streams into blended graphics or two simultaneous in-band streams in a picture-in-picture format that are presented in a substantially simultaneous time." (Office Action, page 4.) The Office Action further alleges that the MPEG transport streams as taught by Saito can be superimposed into an output stream using the system as taught by MacInnis and that the motivation to do so is to "improve the performance of the system transmitting information from multiple media streams as a single superposed media stream." (Office Action, page 4.)

As an initial matter, Applicants note that the present invention is directed to portable communication devices. In contrast, MacInnis appears to describe a video and graphics system used in television control electronics, such as set top boxes, etc., which is a non-analogous art relative to portable communication devices. Accordingly, Applicants respectfully submit that the Office Action allegation that "superimposing" would improve system performance appears to be unrelated to the recitations of Claim 1, which generally disclose new functionality in a portable device.

Additionally, the "blended graphics," as described in MacInnis, appears to refer to a blend of graphics images and video data. (See, e.g., MacInnis, column 46, lines 57-58, FIG. 61.) In contrast with video data, graphics display a static image that may be updated by another static image. For example, a graphic may include an active window in a window-driven operating system, among others. In this regard, the "blend" is not of data of the same media type as recited in Claim 1. Thus, the blended graphics described in MacInnis are not applicable to the recitations of Claim 1.

Further, the picture-in-picture of MacInnis appears to be described in the context of a "data transport" for descrambling MPEG transport streams. (See, e.g., MacInnis, column 72, lines 55-64.) In this regard, data transport as described in MacInnis is wholly distinctive from portable communication devices of Claim 1. For at least the above reasons, MacInnis does not disclose or suggest what is alleged by the Office Action. Additionally, the Office Action does not allege and Saito does not disclose or suggest the teachings that are missing from MacInnis.

Applicants further note that Claim 1 is amended to include recitations

corresponding to dependent Claim 6, which is canceled herein. For example, Claim 1, as amended, recites, in part "wherein at least one of generating and/or combining is dependent on input data from a user of said portable communication device." In rejecting Claim 6, the Office Action states that Saito discloses a method for forming an output stream in which at least one of the steps is dependent on input data from a user of said portable communication device. The Office Action cites Saito at Figure 4 and states "an input section 35 that provides input for the main control portion 21 that is responsible for forming the multiplexed streams." (Office Action, page 5.)

Applicants respectfully submit that the Office Action incorrectly reads undisclosed functionality into the main control section 21 of Saito. For example, Saito appears to describe that the main control section 21 judges whether or not the input demodulation signal is a control information or transport stream (TS) obtained by multiplexing the multimedia information. (Saito, column , lines 51-54.) In this regard, Saito is wholly silent as to the main control section 21 "forming the multiplexed streams" as alleged in the Office Action. Accordingly, Saito does not disclose or suggest "wherein at least one of generating and/or combining is dependent on input data from a user of said portable communication device," as recited in Claim 1, as amended. The Office Action does not allege and MacInnis does not provide the teachings that are missing from Saito. Accordingly, Claim 1, as amended, is patentable over Saito and MacInnis, the allowance of which is respectfully requested.

Likewise, amended Claim 22 includes system recitations corresponding to the methods of Claim 1 and is thus patentable for at least similar reasons.

Dependent Claims are Patentable

Applicants respectfully submit that the dependent Claims 2, 4, 5, 7, 9-21, and 23-29 are patentable at least per the patentability of Claims 1 and 22 from which they depend. Applicants further submit that various dependent claims are separately patentable.

For example, Claim 15 recites, in part, "superposing the first and second audio signals of the first and second media streams." As discussed above, superposing is a specific form of combining that is not disclosed or suggested in Saito. For example, superpose may be defined as to place or lay over or above whether in or not in

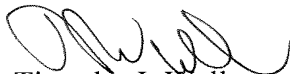
contact. (See, e.g., Superpose, *Merriam-Webster Online Dictionary*, Retrieved July 20, 2009, from <http://www.merriam-webster.com/dictionary/superpose>.) In contrast with the recitations of Claim 15, Saito discusses multiplexing packetized streams sequentially in one stream, in contrast with superposing multiple signals into one stream so that at least a portion of the signals are configured display at a substantially simultaneous time period. (Saito, Fig. 6; Saito, column 4 lines 40-67, column 5 lines 1-3 (each elementary stream is packetized into a PES, which is multiplexed with an identification code (PID) into the transport stream).) Accordingly, Saito's discussion of packetizing the elementary streams and multiplexing the packets into a transport stream does not disclose or suggest superposing streams into one stream. Similarly, the Office Action incorrectly relies on the multiplexing of individual packets of stream information to reject Claims 16-21, which include recitations corresponding to superposing or blending signals into one stream. (Office Action, pages 6-8.) Accordingly, these claims are separately patentable over the art of record, the allowance of which is respectfully requested.

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CONCLUSION

Accordingly, Applicants submit that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any small matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,



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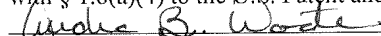
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